

From: [Waye, Don](#)
To: [WOOLVERTON Priscilla](#); [Hoppe, Kathy M](#)
Cc: [Goo, Robert](#); allison.castellan@noaa.gov; [Henning, Alan](#); [Wu, Jennifer](#); [Cox, Mike O.](#); TROX.Randall@deq.state.or.us; [FOSTER Eugene P](#); [ALDRICH Greg](#); [TARNOW Karen E](#); [BRANNAN Kevin](#)
Subject: RE: Oregon DEQ follow-up (CZARA OSDS)
Date: Wednesday, February 19, 2014 1:59:52 PM
Attachments: [Maine OSDS Inspections Rationale.doc](#)

Priscilla,

It was great to make your acquaintance and chat with you today. I think you and Randy will make a great team. I am attaching the Maine OSDS write-up since their program has similar elements with your own. My contact is Kathy Hoppe with Maine Dept. of Env. Protection (DEP). She is not the OSDS person you will ultimately need to communicate with, but she is possibly a good bridge to help you reach the right folks in Maine's onsite/decentralized program.

Kathy's email is: Kathy.M.Hoppe@maine.gov

And her phone # is: (207) 540-3134

Don Waye

U.S. EPA - Nonpoint Source Control Branch

Phone: 202-566-1170

From: WOOLVERTON Priscilla [mailto:Woolverton.Priscilla@deq.state.or.us]

Sent: Wednesday, February 19, 2014 4:38 PM

To: Waye, Don

Subject: Oregon DEQ follow-up

Good afternoon Don,

I am writing to inquire about the individual you mentioned that works for one of Maine's environmental agencies.

Will you please send me the contact information for this individual?

Best regards,

Priscilla

Priscilla Woolverton | Onsite Wastewater Specialist

Western Region | 165 E. 7th Ave., Ste. 100, Eugene, OR 97401-3049
541.687.7347

Inspection of Operating OSDS

Maine DEP has provided additional documentation pertaining to inspections of new and operating OSDS. Maine has developed a multi-faceted approach to meet the OSDS conditions. Its approach ranges from requiring inspections of all new systems at the time of installation, to promoting voluntary inspections by trained professionals at the time of sale, to providing \$1,000,000 statewide annually to replace sub-standard systems. Maine regulates the installation and maintenance of OSDS through the administration of rules adopted by the Maine Department of Human Services titled Maine Subsurface Wastewater Disposal Rules (10-144 CMR 241). Under these rules, new systems must be designed by a licensed Site Evaluator and inspected and approved by a certified Local Plumbing Inspector (LPI). The LPI is a municipal official who issues a permit for the system installation.

LPIs also have the responsibility of investigating complaints about possible system malfunctions, and have the authority to issue a correction order to a property owner whose system is found to be malfunctioning. Municipalities have a legal obligation to ensure correction of reported malfunctioning systems and have the authority to place a lien on property to cover any corrective costs incurred (30-A M.R.S.A. §§ 3428 *et seq.*) The State has also provided a legal opinion from its Assistant Attorney General certifying that its Waste Discharge Law (38 M.R.S.A. §§ 411 *et seq.*) provides the State with adequate authority to prevent and abate water pollution from nonpoint sources of pollution, including OSDS. The DEP may issue administrative enforcement orders (38 M.R.S.A. § 347-A(1)), initiate District Court actions (4 M.R.S.A. § 152(6) and Rule 80K of the Maine Rules of Civil Procedure), and initiate legal proceedings for injunctive or other relief needed to enforce the statute's prohibition in Superior Court through the State's Department of Attorney General (38 M.R.S.A. § 348 and 349). In any legal action, the Court may require that the violator implement specific management measures, take appropriate remedial actions, and cease the violation.

Malfunctioning systems in high priority shoreland areas may be identified through the use of shoreline sanitary surveys. The Maine Department of Marine Resources protects public health by monitoring coastal water quality and surveying the shoreline for pollution sources in all shellfish harvesting areas. Shoreline surveys are updated on a routine schedule in these areas. A new swim beach monitoring program (soon to be initiated in three pilot coastal locations, then expanded to other areas) will also include a sanitary survey component to look for sources of bacterial pollution. DEP staff assists in conducting inspections of shoreland properties, and inspects OSDS where they are suspected as contributing to the contamination. Where malfunctioning systems are identified, DEP has the authority to order corrective action.

The Small Community Grants Program, with an average annual State appropriation of \$1,000,000, provides grants to municipalities to help replace malfunctioning septic systems that are polluting a water body or causing a public nuisance. Grants can be used to fund from 25% to 100% of the design and construction costs, depending upon the income of the owner of the property and the property's use. The highest priority is given

to problems resulting in pollution of a public drinking water supply or shellfishing area. Since 1995, over 2,300 systems have been inspected with approximately 250 systems replaced per year.

Real estate transactions often result in a change of use on a property and can lead to increases in the amount of wastewater generated. In Maine, there are an estimated 21,000 transactions annually that involve developed property. Since approximately half of these properties make use of OSDS, DEP and DHS estimate that roughly 10,500 transactions a year involve OSDS. There is no legal requirement for an OSDS to be inspected at the time of a real estate transaction. DEP and DHS did seek statutory authority to require such inspections, but that proposal was defeated in the Maine Legislature in 2000. Following the unsuccessful attempt at the Legislature, DEP and DHS staff agreed on a strategy of working with Maine Association of Site Evaluators (MASE) on the development of Inspection Guidelines which were adopted by MASE's general membership in February 2002.

DEP and DHS have outlined a detailed strategy for inspecting 80% of the OSDS undergoing property transfer each year following the MASE Inspection Guidelines by 2007 and inspecting 95% by 2017. As a part of this Inspection Program Initiative, DHS and DEP are developing a training program for OSDS inspectors based on the MASE Inspection Guidelines. By 2006, DHS and DEP plan to train 500 inspectors through DEP's Nonpoint Source Pollution Training Center. Beginning in 2003, DHS will implement a voluntary certification program for trained inspectors. Certified Inspectors will be required to report information on the number and outcome of inspections. To encourage OSDS inspections at point of sale, an outreach campaign will be launched that describes the Inspector Certification Program and recommends the hiring of a Certified Inspector during real estate transactions. This campaign, including brochures targeted to prospective buyers of properties will be focused on municipalities and towns, lending institutions, appraisers and other real estate professionals.

DEP and DHS will assess the effectiveness of the Inspection Program Initiative on an annual basis. If the goal (i.e., inspecting 80% of real estate transactions involving OSDS by 2007) is not reached, or if a positive trend is not evident, statutory authority for mandatory inspections will be sought.